



CITY OF PHILADELPHIA

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VIA ELECTRONIC MAIL

Tom Nash
MuckRock News
DEPT MR 2822
PO Box 55819
Boston, MA 02205-5819
(various addresses)@requests.muckrock.com

Re: Nash CP 2013-0143i; 2013-0144i; 2013-0149i; 2013-0150i

Dear Mr. Nash:

Thank you for writing to the City of Philadelphia (“the City”) Mayor’s Office and Police Department (“PPD”) with your requests for information.

On February 12, 2013, the Mayor’s Office and PPD each received two requests, as follows:

- “all documents mentioning Philadelphia student-organized protests against sweatshops between 1999-2003, including ‘Penn Students against Sweatshops’ and ‘United Students Against Sweatshops.’”
- “all documents mentioning the protest of Dick Cheney at University of Pennsylvania / Wharton on October 25, 2002.”

On February 20, 2013, the City acknowledged receipt of your requests and informed you that it would process your requests as informal requests. This constitutes the City’s response to your requests.

Your requests are denied.

Your requests for “all documents” are insufficiently specific such that the City is unable to begin identifying records responsive to your requests. 65 P.S. § 67.703. This is particularly the case as you have not identified a time period for your requests and/or the types of records you are seeking.

The Act requires, among other things, that a written request “identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested” 65 P.S. § 67.703.¹ The requirement of specificity is necessary to (1) ensure that a requestor provides enough information so that “an agency can determine whether to grant or deny the request[.]” *Nanayakkara v. Casella*, 681 A.2d 857, 859-60 (Pa. Commw. 1996), and (2) “to prevent agencies from suffering undue interference and obstruction of their daily functions; . . . [which] would be unavoidable if agency officials always could be subjected to broad and unlimited requests for documents and records.” *Mooney v. Temple Univ. of the Commonwealth Sys. Of Higher Educ. Bd. Of Trustees*, 292 A.2d 395, 397 n.8 (Pa. 1972) (“requests for inspection [must] be specific and particular seeking disclosure of named documents or records rather than broad and unlimited requests for undefined bodies of documents or records”); *see also, e.g., Arduino v. Borough of Dunmore*, 720 A.2d 827, 831 (Pa. Commw. 1998) (holding that a request for “‘all records’ related to the disbursement of the funds for [certain] public projects” lacked sufficient specificity), *appeal denied*, 741 A.2d 195 (Pa. 1992); *Hunt. v. Pa. Dep’t of Corr.*, 698 A.2d 147, 149 (Pa. Commw. 1997) (holding that requests, including a request for all documents given by Department of Corrections to inmate and by inmate to Department, lacked sufficient specificity).

Pennsylvania courts have compared such broad, sweeping requests to discovery-type requests which, while potentially proper in the context of civil litigation, are improper under the Act. *Berman v. Pa. Convention Ctr. Auth.*, 901 A.2d 1085, 1089 (Pa. Commw. 2006) (holding that request for “[t]he most recent plans, construction, and design documents’ relating to” the convention center expansion was “more in the nature of a discovery request than a proper request for public records”); *Associated Builders and Contractors, Inc. v. Pa. Dep’t of Gen Servs.*, 747 A.2d 962, 965-66 (Pa. Commw. 2000) (holding that requests “akin to document requests under the civil discovery rules, *i.e.*, ‘any and all documents relating to [subject matter]’” lack sufficient specificity); *accord PSP v. OOR*, 995 A.2d. 515, 517 (Pa. Commw. 2010) (“The portion of the request seeking any and all records, files or communications [concerning subject matter] is insufficiently specific for the PSP to respond to the request.”); *Pa. Hous. Fin. Agency v. Ali*, 43 A.3d 532 (Pa. Commw. 2012) (finding request for all correspondence regarding a subject insufficiently specific). Such broad requests have been, and will be, denied.

It would place an unreasonable burden on the City to go through all of its records for an extended period of time without knowing, with sufficient specificity, what type of records are being sought. *Cf. Mollick v. Twp. of Worcester*, 32 A.3d 859, 871 (Pa. Cmwh. 2011) (holding that requests seeking emails between certain agency officials and employees for the past one and five years without sufficiently identifying the subject matter were insufficiently specific, and concluding that “it would place an unreasonable burden on an agency to examine all its emails for an extended time period without knowing, with sufficient specificity, what Township business or activity the request is related [to].”)

As your requests are insufficiently specific, the City is unable to assert all applicable grounds of denial and reserves the right to do so if your requests are construed as seeking specific records after a

¹ This language is identical to sufficient specificity requirement in § 2(c) of the prior Right-to-Know Law, 65 P.S. 66.1, *et seq.* Accordingly, the case law interpreting this language in the context of the old Right-to-Know Law remains binding. *Dep’t of Conservation & Natural Res. v. Office of Open Records*, 1 A.3d 929, 940-941 (Pa. Commw. 2010) (interpreting language in the new Act by relying on prior precedent holding that “[t]he language in the two definitions is virtually identical. Faced with a prior judicial interpretation . . . by . . . the Pennsylvania Supreme Court of the account/voucher/contract language in the RTKL, even though issued in the context of the Old Law, we are not at liberty here to ascribe a different meaning to the same language.”).

review of such records. Subject to, and without waiving the foregoing objections, your requests could encompass various exempt records and are specifically denied to the extent that you seek:

- Records containing personal identifying information exempt from disclosure pursuant to 65 P.S. § 67.708(b)(6) including (but not limited to) social security and/or federal tax identification numbers, bank account numbers, home addresses, cell phone numbers, home telephone numbers, and personal email addresses.
- Records reflecting “[1] internal predecisional deliberations of an agency, its members, employees [2] predecisional deliberations between agency members, employees or officials and members, employees, or officials of another agency . . . or [3] any research, memos, or other documents used in predecisional deliberations.” 65 P.S. § 67.708(b)(10)(i)(A).
- Records reflecting the home addresses of individuals. Under 65 P.S. § 67.708(b)(1)(ii) of the Act, a request for a record that “would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual” may be denied. The City of Philadelphia continues to believe that the release of home addresses constitutes such a risk, and has redacted such information in the past, and will continue to do so pending the outcome of the City’s appeal of *Purcell v. City of Philadelphia*, OOR Dkt. AP 2009-0263. In addition, certain home addresses are redacted to protect personal identifying information. 65 P.S. § 67.708 (b)(6)(i)(A); 65 Pa.C.S. § 67.708(c); 65 Pa.C.S. § 67.101 (defining personal financial information to include “other information relating to an individual’s personal finances”); *cf. Dep’t of Conservation & Natural Res. v. Office of Open Records*, 1 A.3d 929, 931-942 (Pa. Commw. 2010).
- Notes or working papers exempt from disclosure pursuant to 65 P.S. § 67.708(b)(12).
- Records “maintained by an agency in connection with . . . law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity.” 65 P.S. § 67.708(b)(2).
- Records relating to criminal or noncriminal investigations exempt from disclosure pursuant to 65 P.S. § 67.708(b)(16) and 65 P.S. § 67.708(b)(17).

Please be advised that this correspondence will close your request with our office as permitted by law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ben Mishkin", with a stylized flourish at the end.

Benjamin S. Mishkin

cc: Katherine Lonie, Open Records Officer, Office of the Mayor;
Sergeant Albert Revel, Open Records Officer, Philadelphia Police Department